



WP(MD). No.9218 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 26.07.2024

CORAM

THE HON'BLE Ms.JUSTICE R.N.MANJULA

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Vadivel

... Petitioner

Vs

The Commissioner,
Pugalur Municipality, Karur District.

... Respondent

PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to calling for the records relating to the Proceedings in Na.Ka.50/2022, dated 28.02.2022 on the file of the Respondent herein and quash the same .

For Petitioner : Mr.S.MP.Amalan

For Respondent : Mr.K.Balasubramani
Standing Counsel



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ORDER

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Heard Mr.S.MP.Amalan, learned counsel appearing for the petitioner and Mr.K.Balasubramani, learned Standing Counsel appearing for the respondents.

2.The petitioner has filed this writ petition challenging the order of suspension, dated 28. 02.2022 alleging that it is illegal.

3. The petitioner is working as an Office Assistant in the office of the respondent. A case has been registered in Crime No.6 of 2022 by the District Crime Branch, Karur, against the petitioner and others for the offences under Sections 420, 465, 466, 467, 468, 471, 147, 294(b), 506(2) IPC. The petitioner has been arrayed as 6th accused in the above case. In the said case, the petitioner was arrested on 12.02.2022 and released on 16.03.2022. As the petitioner was in custody for more than 48 hours, he is deemed to have got suspended. He has also not issued with a charge-memo.



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4.The learned counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case only in view of the confession given by the co-accused. Despite the petitioner has been kept under suspension from 28.02.2022, So far neither the charge memo issued nor charge sheet filed against him in the criminal case pending against him. The allegation is that the petitioner has actively co-operated with the other accused and had created forged documents in respect of Government lands, in order to create patta in the name of private individuals.

5.Since the respondent would have had Government records in their custody, prima facie grounds for the allegation, the respondent could have initiated disciplinary proceedings. Despite the petitioner has been kept under suspension for more than 3 months and neither charge memo nor charge sheet has been filed against him.

6.The case in hand squarely relies upon the judgment of the Hon'ble Supreme Court in ***Ajay Kumar Choudhary Vs. Union of India through its Secretary and another***, reported in AIR 2015 SC 2389,



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wherein it is held that the period of suspension should not extend beyond period of three months if memorandum of charges/charge sheet is not served on the delinquent within the said period.

7. In this case also, no charge sheet was served upon the petitioner despite he was placed under suspension for more than three months. Nothing would have precluded the respondents from furnishing the charge memo if the respondents deems it fit to initiate disciplinary proceedings. But so far, the respondents have not taken any steps in that direction. It is right to state that revoking suspension of this nature would have serious consequence, if the respondents does not show enough seriousness in serving the charge memo at the earliest in order to initiate the disciplinary proceedings and complete it within any specific time frame. Just because the petitioner is said to have involved in a criminal case, the suspension cannot be kept eternally without any revision.

8. As rendered in the *Ajay Kumar Choudhary's* case, I feel pending investigation/pending criminal case, the order of suspension be revoked and the petitioner can be reinstated into service.



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9. In the result, the Writ Petition is allowed and the impugned order in Na.Ka.50/2022, dated 28.02.2022 is hereby quashed.

No costs.

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NCC : Yes/No
Index : Yes/No
PNM

To
The Commissioner,
Pugalur Municipality, Karur District



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R.N.MANJULA, J.

PNM

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